

INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**CHARGE AGAINST EMPLOYER****DO NOT WRITE IN THIS SPACE**

Case

**01-CA-284330**

Date Filed

**October 12, 2021****INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer Dollar General		b. Tel. No. (615) 684-7272
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 390 New Hartford Road CT Barkhamsted 06063	e. Employer Representative Jason Ranson District Manager	g. e-Mail Jransom@dollargeneral.com
		h. Number of workers employed 5
i. Type of Establishment (factory, mine, wholesaler, etc.) Retail (Department & Discount)	j. Identify principal product or service General Merchandise	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 3 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

**2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)**

--See additional page--

**3. Full name of party filing charge (if labor organization, give full name, including local name and number)**Jessica Petronella  
Dollar General

Title: Organizing Director

**4a. Address (Street and number, city, state, and ZIP code)**290 Post Road West  
CT Westport 068814b. Tel. No.  
(203) 226-47514c. Cell No.  
(203) 260-73504d. Fax No.  
(203) 454-02514e. e-Mail  
Jespetronella@gmail.com**5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**

United Food &amp; Commercial Workers Local 371

**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Jessica Petronella  
Title: Organizing Director

(Print/type name and title or office, if any)

Tel. No.  
(203) 226-4751Office, if any, Cell No.  
(203) 260-7350Fax No.  
(203) 454-0251e-Mail  
Jespetronella@gmail.com

290 Post Road West

10/12/2021 10:43:41 AM  
(date)

Address Westport CT 06881

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)****PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

## Basis of the Charge

### 8(a)(3)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) joined or supported a labor organization and in order to discourage union activities and/or membership.

Name of employee discharged	Approximate date of discharge
Jacob Serafine	10/08/21



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

SUBREGION 34  
450 Main St Ste 410  
Hartford, CT 06103-3078

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (860)240-3522  
Fax: (860)240-3564



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October 12, 2021

Jessica Petronella, Organizing Director  
United Food and Commercial International  
Workers Union Local 371, AFL-CIO  
290 Post Road West  
Westport, CT 06881

Re: Dollar General  
Case 01-CA-284330

Dear Ms. Petronella:

The charge that you filed in this case on October 12, 2021 has been docketed as case number 01-CA-284330. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Attorney Jo Anne P. Howlett whose telephone number is (857)317-7810. If this Board agent is not available, you may contact Supervisory Field Examiner Dina M. Raimo Pelham whose telephone number is (959)200-7377.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present

your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

**Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(l) of the Act may be appropriate.** In accordance with Section 10(l) of the Act and Section 10200.1 of the Casehandling Manual, the investigation of this charge is given the highest priority and as the Charging Party, you are expected to present your evidence and any position statement within 24 hours from the date of filing the charge. Please be advised that if the Region determines there is reasonable cause to believe that the allegations of the charge are true and that a complaint should issue, the Region shall file on behalf of the Board a complaint in federal district court seeking injunctive relief or temporary restraining order pending adjudication of the alleged unfair labor practice by the Board. If you do not submit your evidence and any position statement by COB on (one day after filing), your charge may be dismissed for lack of cooperation in the investigation.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

**Prohibition on Recording Affidavit Interviews:** It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

**Correspondence:** All documents submitted to the Region regarding your case **MUST** be filed through the Agency's website, [www.nlr.gov](http://www.nlr.gov). This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov) or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Michael C. Cass". The signature is written in a cursive, flowing style.

Michael C. Cass  
Acting Regional Director



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

SUBREGION 34  
450 Main St Ste 410  
Hartford, CT 06103-3078

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (860)240-3522  
Fax: (860)240-3564



Download  
NLRB  
Mobile App

October 12, 2021

Jason Ranson, District Manager  
Dollar General  
390 New Hartford Road  
Barkhamsted, CT 06063

Re: Dollar General  
Case 01-CA-284330

Dear Mr. Ranson:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Attorney Jo Anne P. Howlett whose telephone number is (857)317-7810. If this Board agent is not available, you may contact Supervisory Field Examiner Dina M. Raimo Pelham whose telephone number is (959)200-7377.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the

investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.**

Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Michael C. Cass  
Acting Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: Crystal S. Carey, Attorney  
Morgan, Lewis & Bockius, LLP  
1701 Market Street  
Philadelphia, PA 19103-2903



## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 01-CA-284330
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## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES \_\_\_\_\_)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**DOLLAR GENERAL**

and

**UNITED FOOD AND COMMERCIAL  
INTERNATIONAL WORKERS UNION LOCAL  
371, AFL-CIO**

**Case 01-CA-284330**

**AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, state under oath that on October 12, 2021, I served the above-entitled document(s) by post-paid email and regular mail upon the following persons, addressed to them at the following addresses:

Jason Ranson, District Manager  
Dollar General  
390 New Hartford Road  
Barkhamsted, CT 06063  
Email: jransom@dollargeneral.com

Crystal S. Carey, Attorney  
Morgan, Lewis & Bockius, LLP  
1701 Market Street  
Philadelphia, PA 19103-2903  
Email: crystal.carey@morganlewis.com

October 12, 2021

Date

Elizabeth C. Person, Designated Agent of NLRB

Name

*Elizabeth C. Person*

Signature

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 01/SUBREGION 34**

**DOLGENCORP, LLC D/B/A DOLLAR GENERAL**

**and**

**UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION, LOCAL 371, AFL-CIO**

**Cases 01-CA-284330  
01-CA-286021  
01-CA- 287491**

**ORDER CONSOLIDATING CASES,  
CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 01-CA-284330, 01-CA-286021, and 01-CA-287941, which are based on charges filed by United Food and Commercial Workers International Union, Local 371, AFL-CIO (the Union) against Dolgencorp, LLC d/b/a Dollar General (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

**1. CHARGES**

(a) The charge in Case 01-CA-284330 was filed by the Union on October 12, 2021, and a copy was served on Respondent by regular U.S. mail on October 12, 2021.

(b) The charge in Case 01-CA-286021 was filed by the Union on November 5, 2021, and a copy was served on Respondent by regular U.S. mail on November 10, 2021.

(c) The amended charge in Case 01-CA-286021 was filed by the Union on May 10, 2022, and a copy was served on Respondent by regular U.S. mail on May 11, 2022.

(d) The charge in Case 01-CA-287491 was filed by the Union on December 10, 2021, and a copy was served on Respondent by regular U.S. mail on December 10, 2021.

## **2. JURISDICTION AND COMMERCE**

(a) At all material times, Respondent has been a Kentucky limited liability company with over 18,000 retail stores located throughout the contiguous United States, including corporate offices housing its headquarters in Goodlettsville, Tennessee and the retail store at issue in this proceeding, located at Barkhamsted, Connecticut (its Barkhamsted store), and has been engaged in the retail sale of food, snacks, health and beauty aids, cleaning supplies, family apparel, housewares and seasonal items.

(b) Annually, in conducting its business operations described above in paragraph 2(a), Respondent derives gross revenue in excess of \$500,000.

(c) Annually, Respondent purchases and receives at its Barkhamsted store goods valued in excess of \$50,000 directly from points outside of the State of Connecticut.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

## **3. UNION STATUS**

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

#### **4. SUPERVISORS AND AGENTS**

(a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act, and/or agents of Respondent within the meaning of 2(13) of the Act:

Janie Farris	-	--	Director of Operational Effectiveness
Justin Hancock		--	Manager of Operational Effectiveness
David Lovelace		--	Senior Director of Labor Relations
Jason Ransom		--	District Manager
Basel Soukarieh		--	Store Manager
Tod Boyster		--	Senior Director of Operational Effectiveness
Jeff Merryman		--	Human Resource Director of Emerging Markets
Kathy Reardon		--	Executive Vice President and Chief People Officer

(b) From about September 25, 2021 to October 22, 2021, Respondent contracted with Labor Relations Institute, Inc. of Broken Arrow, Arizona (herein “LRI”) which employed various unnamed individuals who communicated directly with Respondent’s Barkhamsted employees regarding the exercise of their rights to organize and bargain collectively, and in doing so LRI acted as an agent of Respondent within the meaning of 2(13) of the Act.

#### **5. SURVEILLANCE AND CREATION OF IMPRESSION OF SURVEILLANCE**

From about September 22, 2021 to October 21, 2021, Respondent engaged in surveillance of its employees and created the impression among its employees that their union or protected concerted activities were under surveillance, by deploying various corporate officers from the Goodlettsville, Tennessee headquarters, including Farris, Hancock, Lovejoy, and others whose names are unknown to the General Counsel (herein “Corporate Managers”) who embedded themselves in the store, eavesdropped and interrupted employees’ conversations,

worked alongside them, and maintained a near daily presence while working alongside the Barkhamsted store employees.

## **6. INTERFERENCE, THREATS, AND CAPTIVE AUDIENCE MEETINGS**

(a) Between September 25, 2021 and October 21, 2022, Respondent held mandatory captive-audience meetings and forced employees to convene on paid time to listen to representatives from LRI in order to discourage union activity.

(b) On various occasions during the period from September 22, 2021 to October 21, 2021, Respondent, by its Corporate Managers, cornered employees while performing their job duties and required them to listen to Respondent's speech about the exercise of Section 7 rights.

(c) Beginning about September 22, 2021 until about October 21, 2021, Respondent, by its visiting Corporate Managers, more closely supervised the work of its Barkhamsted employees.

(d) In late September or early October 2021, Respondent, by Farris, at the Barkhamsted store, raised the specter of the closing of its Auxvasse, Missouri store to threaten employees that the Barkhamsted store would close if the employees voted to unionize.

(e) On about October 16, 2021, Respondent, by Ransom, at the Barkhamsted store, raised the specter of the closing of its Auxvasse, Missouri store to threaten employees that the Barkhamsted store would close if the employees voted to unionize.

## **7. SOLICITATION OF GRIEVANCES AND GRANT OF BENEFITS**

(a) On various occasions during the period from September 22, 2021 to October 21, 2021, Respondent, by its Corporate Managers, solicited employee grievances by engaging employees in private discussions and asking employees questions about what was bothering them, what was on their minds, what they would change, what the Respondent could do better,

and impliedly promised to remedy those grievances.

(b) About early October 2021, by advising employees that the District Manager who employees had complained of had been removed from his position, Respondent remedied grievances it had solicited and increased benefits to employees.

## **8. RETALIATION**

(a) In late September 2021 or early October 2021, Respondent's employee Jacob Serafini (Serafini) engaged in protected concerted activity with other employees for the purposes of mutual aid and protection by speaking with other employees about Respondent's nationwide practice of paying employees at or near minimum wage.

(b) About October 8, 2021, Serafini complained to Corporate Manager Hancock about Respondent's practices and policies regarding making deliveries and unloading and stocking deliveries at the Barkhamsted store.

(c) About October 8, 2021, Respondent discharged Serafini.

(d) Respondent discharged Serafini because he engaged in the protected concerted activities described in paragraph 8(a) and/or 8 (b), and because he engaged in Union activities, and to discourage other employees from engaging in such activities.

## **9. 8(a)(1) CONCLUSION**

By the conduct described above in paragraphs 5, 6, 7, and 8(c) and (d), Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

## **10. 8(a)(3) CONCLUSION**

By the conduct described above in paragraph 8(c) and (d), Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act

**WHEREFORE**, the General Counsel further seeks an Order providing for all relief as may be just and proper to remedy the unfair labor practices alleged, including, but not limited to, requirements that Respondent:

(a) preserve and, within 14 days of a request, provide at the office designated by the Board or its agents, a copy of all payroll records, social security payroll records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of such Order. If requested, the originals of such records shall be provided to the Board or its agents in the same manner;

(b) make employee Jacob Serafini whole, including but not limited to, by reimbursement for consequential damages he incurred as a result of Respondent's unlawful conduct;

(c) offer reinstatement to Jacob Serafini; and, in the event he is unable to return to work, instate a qualified applicant of the Union's choice;

(d) send Jacob Serafini a letter apologizing for any hardship or distress caused by his discharge, by U.S. Mail and email with a courtesy copy to Region 1, on Respondent's letterhead and signed by a responsible official of Respondent;

(e) require Respondent to provide the Union with employee contact information,



equal time to address employees if they are convened by Respondent for “captive audience” meetings about union representation, and reasonable access to Respondent’s bulletin boards and all places where notices to employees are customarily posted;

(f) provide ongoing training of employees, including supervisors and managers, both current and new, on employees’ rights under the Act and compliance with the Board’s Orders with an outline of the training submitted to the Agency in advance of what will be presented and that the Federal Mediation and Conciliation Service (FMCS) conduct such training;

(g) physically post the Notice to Employees at all of Respondent’s facilities in the United States and its Territories and require the Notice to be posted for 60 days, and distribute the Notice to Employees and the Board’s Orders to current and new supervisors and managers;

(h) electronically distribute the Notice to Employees to all employees employed by Respondent in the United States and its Territories by text messaging, posting on social media websites, and posting on internal apps and intranet websites.

(i) grant a Board Agent access to Respondent’s facilities and produce records so that the Board Agent can determine whether Respondent has complied with posting, distribution, and mailing requirements; and

(j) at a meeting or meetings scheduled to ensure the widest possible attendance, have Kathy Reardon read the Notice to Employees and an Explanation of Rights to employees employed by Respondent at its Barkhamsted facility on work time in the presence of a Board agent and a representative of the Union, or have a Board agent read the Notice to Employees and an Explanation of Rights to employees employed by Respondent at its Barkhamsted facility on work time in the presence of a representative of the Union, Kathy Reardon and Jeff

Owens, and make a video recording of the reading of the Notice to Employees and the Explanation of Rights, with the recording being distributed to employees by electronic means or by mail.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before August 29, 2022.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file

containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion or Default Judgment, that the allegations in the complaint are true.

### **NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT on October 18, 2022, at the A.A. Ribicoff Federal Building, 450 Main Street, Suite 410, Hartford, Connecticut,** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding has the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: August 15, 2022



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Laura A. Sacks, Regional Director  
National Labor Relations Board  
Region 01

Attachments

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 1, SUBREGION OFFICE 34**

**DOLGENCORP, LLC D/B/A DOLLAR  
GENERAL**

**and**

**UNITED FOOD AND COMMERCIAL  
WORKERS INTERNATIONAL UNION,  
LOCAL 371, AFL-CIO**

**Cases           01-CA-284330  
                  01-CA-286021  
                  01-CA-287491**

**RESPONDENT DOLLAR GENERAL'S  
ANSWER TO THE CONSOLIDATED COMPLAINT**

Pursuant to Sections 102.20 and 102.21 of the Rules and Regulations of the National Labor Relations Board ("NLRB" or "Board"), Dolgencorp, LLC D/B/a Dollar General ("Respondent"), through its undersigned counsel, answers the Consolidated Complaint ("Complaint") according to the numbered paragraphs thereof.

**Introduction**

To the extent the Complaint's introduction contains factual allegations and/or legal conclusions, they are denied.

**Paragraph 1**

(a) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

(b) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

(c) Respondent is without knowledge as to when the amended charge referenced was filed, but Respondent admits that it received a copy of the amended charge on or about the listed date.

(d) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

**Paragraph 2**

- (a) Respondent admits the allegations in Paragraph 2(a).
- (b) Respondent admits the allegations in Paragraph 2(b).
- (c) Respondent admits the allegations in Paragraph 2(c).
- (d) Respondent admits the allegations in Paragraph 2(d).

**Paragraph 3**

- (a) Admitted on information and belief.

**Paragraph 4**

(a) Respondent admits the allegations in Paragraph 4(a) with the following corrections:

- Janie Farris is now Senior Director of Operational Effectiveness. At the times underlying the Complaint allegations, Farris was Director of Operational Effectiveness.
  - Justin Hancock is Senior Manager, Operational Effectiveness.
  - The correct name is Daniel Lovelace.
  - Tod Boyster is Vice President, Division Manager.
- (b) Respondent denies the allegations in Paragraph 4(b).

**Paragraph 5**

Respondent denies the allegations in Paragraph 5.

**Paragraph 6**

- (a) Respondent denies the allegations in Paragraph 6(a).
- (b) Respondent denies the allegations in Paragraph 6(b).
- (c) Respondent denies the allegations in Paragraph 6(c).
- (d) Respondent denies the allegations in Paragraph 6(d).
- (e) Respondent denies the allegations in Paragraph 6(e).

**Paragraph 7**

- (a) Respondent denies the allegations in Paragraph 7(a).
- (b) Respondent denies the allegations in Paragraph 7(b).

**Paragraph 8**

- (a) Respondent denies the allegations in Paragraph 8(a).
- (b) Respondent denies the allegations in Paragraph 8(b).
- (c) Respondent admits the allegation in Paragraph 8(c).
- (d) Respondent denies the allegations in Paragraph 8(d).

**Paragraph 9**

Respondent denies the allegations in Paragraph 9.

**Paragraph 10**

Respondent denies the allegations in Paragraph 10.

### **Further Global Denial**

Any and all remaining allegations contained in the Complaint, including but not limited to the prayer for relief section, are denied. Any and all Complaint allegations not specifically admitted above are denied.

### **AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief can be granted.
2. The facts alleged in the Complaint concerning the discharge of Jacob Serafini (“Serafini”) cannot constitute any unfair labor practice within the meaning of Section 8(a)(3) or (1) of the National Labor Relations Act (“NLRA” or the “Act”). Respondent did not discharge Serafini because he engaged in activities protected by Section 7 of the Act nor in order to discourage employees from engaging in such activities. Respondent discharged Serafini for legitimate business reasons and would have taken the same action even in the absence of any activity protected by Section 7 of the Act.
3. No order of the Board may require the reinstatement of Serafini or the payment to him of any backpay because he was discharged for cause. NLRA § 10(c).
4. The facts alleged in the Complaint cannot constitute any unfair labor practice within the meaning of Section 8(a)(1) of the Act because they do not describe conduct of the Respondent that constitutes unlawful interference, restraint, or coercion of employees in the exercise of the rights guaranteed in Section 7 of the Act.

For example, supervisors of Respondent being present at Respondent’s Barkhamsted, Connecticut facility, supervising employees, and/or speaking to employees about Respondent’s business does not interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7 of the Act and therefore does not violate Section 8(a)(1) of the Act.

For example, supervisors of Respondent exercising the rights to engage in the “expressing of any views, argument, or opinion, or the dissemination therefore,” where “such expression contains no threat of reprisal or force or promise of benefit,” does not “constitute” or provide “evidence of” any unfair labor practice under Section 8(a)(1) or any other provision in the Act, irrespective of whether Respondent engages in such speech to employees in the workplace, on company time, or in a meeting or a one-on-one discussion where attendance is considered mandatory. NLRA § 8(c).

5. Any finding of an unfair labor practice based in whole or in part on speech and/or views, argument, or opinion spoken or disseminated by Respondent or managers, supervisors, agents and other persons acting on behalf of Respondent (collectively hereinafter referred to as “Respondent’s agents” or “its agents”) in any meetings, one-on-one discussions, or written or other communications, whether in written, printed, graphic, or visual form which “contains no threat of reprisal or force or promise of benefit” is prohibited by NLRA Section 8(c).

6. Any finding of an unfair labor practice based in whole or in part on speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit” constitutes an unconstitutional infringement on the First Amendment rights of freedom of speech and the right of the people peaceably to assemble.

7. Any finding of an unfair labor practice based in whole or in part on: (a) speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit,” and (b) the failure by Respondent and its agents to make affirmative statements about rights ostensibly protected by the NLRA (e.g., “that



attendance is voluntary,” that they “will be free to leave at any time,” that “non-attendance will not result in reprisals,” and that “attendance will not result in rewards or benefits”),<sup>1</sup> constitutes an unconstitutional infringement on the First Amendment rights of freedom of speech and the right of the people peaceably to assemble, unconstitutional compelled speech that is prohibited by the First Amendment, and an unconstitutional deprivation and taking of property prohibited by the Fifth Amendment. *See, e.g., National Association of Manufacturers v. NLRB*, 717 F.3d 947 (D.C. Cir. 2013).

8. Any finding of an unfair labor practice based in whole or in part on: (a) speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit,” (b) the failure by Respondent and its agents to make affirmative statements about rights ostensibly protected by the NLRA (e.g., “that attendance is voluntary,” that they “will be free to leave at any time,” that “non-attendance will not result in reprisals,” and that “attendance will not result in rewards or benefits”), violates the Act’s prohibition against the Board’s creation of affirmative employer notice requirements unrelated to a pending representation petition and/or pending charge and complaint resulting in an unfair labor practice finding. *See, e.g., Chamber of Commerce of the United States v. NLRB*, 721 F.3d 152 (4th Cir. 2013); *cf. National Association of Manufacturers v. NLRB*, 717 F.3d 947 (D.C. Cir. 2013).

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<sup>1</sup> *See, e.g.,* the affirmative requirements stated in the General Counsel’s Brief in Support of General Counsel’s Exceptions to the Administrative Law Judge’s Decision submitted in *Cemex Construction Materials Pacific, LLC*, NLRB Cases 28-CA-230115 et al., pp. 56-62 (April 11, 2022).

9. Any finding of an unfair labor practice based in whole or in part on the failure by Respondent and its agents to grant Union representatives equal access to Respondent's property, and any remedy requiring that Union representatives be given such equal access, constitutes an unconstitutional deprivation and taking of property prohibited by the Fifth Amendment.

10. The finding of an unfair labor practice based on the Complaint would violate Respondent's Due Process Rights under the U.S. Constitution and other federal law as the facts alleged in the Complaint are not unfair labor practices within the meaning of the Act.

11. The finding of an unfair labor practice based on the Complaint would be improper because Respondent's alleged actions with regard to its speech were consistent with the Notice of the Election in NLRB Case No. 01-RC-283202.

12. No remedy is appropriate as Respondent has not engaged in any unfair labor practice. Further, the remedies requested in the Complaint are punitive, inappropriate, non-remedial, violate Respondent's freedom of speech and assembly rights under the First Amendment, violate the takings clause of the Fifth Amendment, and are beyond the authority of the Board to order under Section 10(c) of the Act.

For example, the ordering of the prayed-for remedy relating to the reading of a notice would exceed the Board's authority under Section 10(c) of the Act and constitute an unconstitutional infringement on the First Amendment rights of freedom of speech and the right of the people peaceably to assemble, unconstitutional compelled speech that is prohibited by the First Amendment, and an unconstitutional deprivation and taking of property prohibited by the Fifth Amendment. *See, e.g., Denton Cty. Elec. Coop., Inc. v. NLRB*, 962 F.3d 161, 174 (5th Cir. 2020).

14. Some or all of the allegations in the Complaint are time-barred by Section 10(b) of the Act.

15. Respondent further reserves the right to amend and/or supplement its answers and affirmative defenses.

**WHEREFORE**, Respondent respectfully requests that the Complaint be dismissed in its entirety, with prejudice.

Dated: August 29, 2022

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Michael E. Lignowski/rts

Michael E. Lignowski  
Senior Attorney  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: +1.215.963.5455  
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Email: [michael.lignowski@morganlewis.com](mailto:michael.lignowski@morganlewis.com)

*Attorney for Respondent Dollar General*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 29, 2022, an electronic copy of the foregoing Respondent Dollar General's Answer to the Consolidated Complaint in NLRB Cases 01-CA-284330, et al. was E-Filed with NLRB Region 1 and served on the Charging Party by e-mail at this e-mail address:

Jessica Petronella, Organizing Director  
United Food and Commercial Workers  
International Union Local 371, AFL-CIO  
290 Post Road West  
Westport, CT 06881  
Email: [jespetronella@gmail.com](mailto:jespetronella@gmail.com)

/s/ Ryan T Sears (dated August 29, 2022)

Ryan T Sears  
Associate  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
Phone: +1.202.739.5077  
Fax: +1.202.739.3001  
Email: [ryan.sears@morganlewis.com](mailto:ryan.sears@morganlewis.com)

*Attorney for Respondent Dollar General*

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SUBREGION 34**

**DOLGENCORP, LLC D/B/A DOLLAR GENERAL**

**and**

**UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION, LOCAL 371, AFL-CIO**

**Cases 01-CA-284330  
01-CA-286021  
01-CA-287491**

**ORDER RESCHEDULING HEARING**

**IT IS HEREBY ORDERED** that the hearing in the above-entitled matter is rescheduled from October 18, 2022 to **Tuesday, November 1, 2022, at 10:00 AM** at the A.A. Ribicoff Federal Building, 450 Main Street, Suite 410, Hartford, Connecticut. The hearing will continue on consecutive days until concluded.

Dated: September 7, 2022



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Laura A. Sacks, Regional Director  
National Labor Relations Board  
Region 01

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SUBREGION 34**

**DOLGENCORP, LLC D/B/A DOLLAR GENERAL**

**and**

**UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION, LOCAL 371, AFL-CIO**

**Cases 01-CA-284330  
01-CA-286021  
01-CA-287491**

**AFFIDAVIT OF SERVICE OF ORDER RESCHEDULING HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **September 7, 2022**, I served the above-entitled document(s) by **electronic mail** upon the following persons, addressed to them at the following addresses:

Jason Ranson, District Manager  
DOLGENCORP, LLC d/b/a Dollar General  
390 New Hartford Road  
Barkhamsted, CT 06063  
Email: [jransom@dollargeneral.com](mailto:jransom@dollargeneral.com)

Crystal S. Carey, Attorney  
Michael E. Lignowski, Esquire  
Morgan, Lewis & Bockius, LLP  
1701 Market St  
Philadelphia, PA 19103  
Email: [crystal.carey@morganlewis.com](mailto:crystal.carey@morganlewis.com)  
Email: [michael.lignowski@morganlewis.com](mailto:michael.lignowski@morganlewis.com)

Jessica Petronella, Organizing Director  
United Food and Commercial Workers  
International Union Local 371, AFL-CIO  
290 Post Road West  
Westport, CT 06881  
Email: [jespetronella@gmail.com](mailto:jespetronella@gmail.com)

September 7, 2022

Date

Elizabeth C. Person, Designated Agent of NLRB

Name

*Elizabeth C. Person*

Signature

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SUBREGION 34**

**DOLGENCORP, LLC D/B/A DOLLAR GENERAL**

**and**

**UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION, LOCAL 371, AFL-CIO**

**Cases 01-CA-284330  
01-CA-286021  
01-CA-287491**

**ORDER FURTHER RESCHEDULING HEARING**

**IT IS HEREBY FURTURE ORDERED** that the hearing in the above-entitled matter is rescheduled from November 1, 2022 to 10:00 AM on **Tuesday, January 10, 2023** at the A.A. Ribicoff Federal Building, 450 Main Street, Suite 410, Hartford, Connecticut. The hearing will continue on consecutive days until concluded.

Dated: October 11, 2022

Jessica L. Foley, Acting Regional Director  
National Labor Relations Board  
Region 01, By

*Dina M. Raimo Pelham*

---

Dina M. Raimo Pelham, Acting Officer-In-Charge  
National Labor Relations Board  
Subregion 34

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SUBREGION 34**

**DOLGENCORP, LLC D/B/A DOLLAR GENERAL**

**and**

**UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION, LOCAL 371, AFL-CIO**

**Cases 01-CA-284330  
01-CA-286021  
01-CA-287491**

**AFFIDAVIT OF SERVICE OF: ORDER FURTHER RESCHEDULING HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **October 11, 2022**, I served the above-entitled document(s) by **electronic mail** upon the following persons, addressed to them at the following addresses:

Jason Ranson, District Manager  
DOLGENCORP, LLC d/b/a Dollar General  
390 New Hartford Road  
Barkhamsted, CT 06063  
Email: [jransom@dollargeneral.com](mailto:jransom@dollargeneral.com)

Jessica Petronella, Organizing Director  
United Food and Commercial Workers  
International Union Local 371, AFL-CIO  
290 Post Road West  
Westport, CT 06881  
Email: [jespetronella@gmail.com](mailto:jespetronella@gmail.com)

Crystal S. Carey, Attorney  
Michael E. Lignowski, Esquire  
Stefanie Moll, Atty.  
Morgan, Lewis & Bockius, LLP  
1701 Market St  
Philadelphia, PA 19103  
Email: [crystal.carey@morganlewis.com](mailto:crystal.carey@morganlewis.com)  
Email: [michael.lignowski@morganlewis.com](mailto:michael.lignowski@morganlewis.com)  
Email: [stefanie.moll@morganlewis.com](mailto:stefanie.moll@morganlewis.com)

October 11, 2022

Date

Elizabeth C. Person, Designated Agent of NLRB

Name

*Elizabeth C. Person*

Signature



**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 1, SUBREGION OFFICE 34**

**DOLGENCORP, LLC D/B/A DOLLAR  
GENERAL**

**and**

**UNITED FOOD AND COMMERCIAL  
WORKERS INTERNATIONAL UNION,  
LOCAL 371, AFL-CIO**

**Cases           01-CA-284330  
                  01-CA-286021  
                  01-CA-287491**

**RESPONDENT DOLLAR GENERAL'S  
ANSWER TO THE AMENDED CONSOLIDATED COMPLAINT**

Pursuant to Sections 102.20 and 102.21 of the Rules and Regulations of the National Labor Relations Board ("NLRB" or "Board"), Dolgencorp, LLC D/B/a Dollar General ("Respondent"), through its undersigned counsel, answers the Consolidated Complaint ("Complaint") according to the numbered paragraphs thereof.

**Introduction**

To the extent the Complaint's introduction contains factual allegations and/or legal conclusions, they are denied.

**Paragraph 1**

(a) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

(b) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

(c) Respondent is without knowledge as to when the amended charge referenced was filed, but Respondent admits that it received a copy of the amended charge on or about the listed date.

(d) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

**Paragraph 2**

- (a) Respondent admits the allegations in Paragraph 2(a).
- (b) Respondent admits the allegations in Paragraph 2(b).
- (c) Respondent admits the allegations in Paragraph 2(c).
- (d) Respondent admits the allegations in Paragraph 2(d).

**Paragraph 3**

- (a) Admitted on information and belief.

**Paragraph 4**

(a) Respondent admits the allegations in Paragraph 4(a) with the following corrections:

- Janie Farris is now Senior Director of Operational Effectiveness. At the times underlying the Complaint allegations, Farris was Director of Operational Effectiveness.
  - Tod Boyster is Vice President, Division Manager.
  - The employment relationship between Respondent and George Morgan terminated on October 12, 2021
- (b) Respondent denies the allegations in Paragraph 4(b).

**Paragraph 5**

Respondent denies the allegations in Paragraph 5.

**Paragraph 6**

- (a) Respondent denies the allegations in Paragraph 6(a).
- (b) Respondent denies the allegations in Paragraph 6(b).
- (c) Respondent denies the allegations in Paragraph 6(c).
- (d) Respondent denies the allegations in Paragraph 6(d).
- (e) Respondent denies the allegations in Paragraph 6(e).

**Paragraph 7**

- (a) Respondent denies the allegations in Paragraph 7(a).
- (b) Respondent denies the allegations in Paragraph 7(b).

**Paragraph 8**

- (a) Respondent denies the allegations in Paragraph 8(a).
- (b) Respondent denies the allegations in Paragraph 8(b).
- (c) Respondent admits the allegation in Paragraph 8(c).
- (d) Respondent denies the allegations in Paragraph 8(d).

**Paragraph 9**

Respondent denies the allegations in Paragraph 9.

**Paragraph 10**

Respondent denies the allegations in Paragraph 10.

### **Further Global Denial**

Any and all remaining allegations contained in the Complaint, including but not limited to the prayer for relief section, are denied. Any and all Complaint allegations not specifically admitted above are denied.

### **AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief can be granted.
2. The facts alleged in the Complaint concerning the discharge of Jacob Serafini (“Serafini”) cannot constitute any unfair labor practice within the meaning of Section 8(a)(3) or (1) of the National Labor Relations Act (“NLRA” or the “Act”). Respondent did not discharge Serafini because he engaged in activities protected by Section 7 of the Act nor in order to discourage employees from engaging in such activities. Respondent discharged Serafini for legitimate business reasons and would have taken the same action even in the absence of any activity protected by Section 7 of the Act.
3. No order of the Board may require the reinstatement of Serafini or the payment to him of any backpay because he was discharged for cause. NLRA § 10(c).
4. The facts alleged in the Complaint cannot constitute any unfair labor practice within the meaning of Section 8(a)(1) of the Act because they do not describe conduct of the Respondent that constitutes unlawful interference, restraint, or coercion of employees in the exercise of the rights guaranteed in Section 7 of the Act.

For example, supervisors of Respondent being present at Respondent’s Barkhamsted, Connecticut facility, supervising employees, and/or speaking to employees about Respondent’s business does not interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7 of the Act and therefore does not violate Section 8(a)(1) of the Act.

For example, supervisors of Respondent exercising the rights to engage in the “expressing of any views, argument, or opinion, or the dissemination therefore,” where “such expression contains no threat of reprisal or force or promise of benefit,” does not “constitute” or provide “evidence of” any unfair labor practice under Section 8(a)(1) or any other provision in the Act, irrespective of whether Respondent engages in such speech to employees in the workplace, on company time, or in a meeting or a one-on-one discussion where attendance is considered mandatory. NLRA § 8(c).

5. Any finding of an unfair labor practice based in whole or in part on speech and/or views, argument, or opinion spoken or disseminated by Respondent or managers, supervisors, agents and other persons acting on behalf of Respondent (collectively hereinafter referred to as “Respondent’s agents” or “its agents”) in any meetings, one-on-one discussions, or written or other communications, whether in written, printed, graphic, or visual form which “contains no threat of reprisal or force or promise of benefit” is prohibited by NLRA Section 8(c).

6. Any finding of an unfair labor practice based in whole or in part on speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit” constitutes an unconstitutional infringement on the First Amendment rights of freedom of speech and the right of the people peaceably to assemble.

7. Any finding of an unfair labor practice based in whole or in part on: (a) speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit,” and (b) the failure by Respondent and its agents to make affirmative statements about rights ostensibly protected by the NLRA (e.g., “that

attendance is voluntary,” that they “will be free to leave at any time,” that “non-attendance will not result in reprisals,” and that “attendance will not result in rewards or benefits”),<sup>1</sup> constitutes an unconstitutional infringement on the First Amendment rights of freedom of speech and the right of the people peaceably to assemble, unconstitutional compelled speech that is prohibited by the First Amendment, and an unconstitutional deprivation and taking of property prohibited by the Fifth Amendment. *See, e.g., National Association of Manufacturers v. NLRB*, 717 F.3d 947 (D.C. Cir. 2013).

8. Any finding of an unfair labor practice based in whole or in part on: (a) speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit,” (b) the failure by Respondent and its agents to make affirmative statements about rights ostensibly protected by the NLRA (e.g., “that attendance is voluntary,” that they “will be free to leave at any time,” that “non-attendance will not result in reprisals,” and that “attendance will not result in rewards or benefits”), violates the Act’s prohibition against the Board’s creation of affirmative employer notice requirements unrelated to a pending representation petition and/or pending charge and complaint resulting in an unfair labor practice finding. *See, e.g., Chamber of Commerce of the United States v. NLRB*, 721 F.3d 152 (4th Cir. 2013); *cf. National Association of Manufacturers v. NLRB*, 717 F.3d 947 (D.C. Cir. 2013).

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<sup>1</sup> *See, e.g.,* the affirmative requirements stated in the General Counsel’s Brief in Support of General Counsel’s Exceptions to the Administrative Law Judge’s Decision submitted in *Cemex Construction Materials Pacific, LLC*, NLRB Cases 28-CA-230115 et al., pp. 56-62 (April 11, 2022).

9. Any finding of an unfair labor practice based in whole or in part on the failure by Respondent and its agents to grant Union representatives equal access to Respondent's property, and any remedy requiring that Union representatives be given such equal access, constitutes an unconstitutional deprivation and taking of property prohibited by the Fifth Amendment.

10. The finding of an unfair labor practice based on the Complaint would violate Respondent's Due Process Rights under the U.S. Constitution and other federal law as the facts alleged in the Complaint are not unfair labor practices within the meaning of the Act. Furthermore, such a finding based on retroactive application to a change in Board precedent would constitute an impermissible manifest injustice to Respondent. *Christopher v. SmithKline Beecham Corp.*, 567 U.S. 142, 158-59 (2012) ("It is one thing to expect regulated parties to conform their conduct to an agency's interpretations once the agency announces them; it is quite another to require regulated parties to divine the agency's interpretations in advance or else be held liable when the agency announces its interpretations for the first time in an enforcement proceeding and demands deference."); *Pub. Serv. Co. of Colorado v. FERC*, 91 F.3d 1478, 1488 (D.C. Cir. 1996) "[W]hen there is a substitution of new law for old law that was reasonably clear, the new rule may justifiably be given prospectively-only effect in order to protect the settled expectations of those who had relied on the preexisting rule.") (internal quotations omitted).

11. The finding of an unfair labor practice based on the Complaint would be improper because Respondent's alleged actions with regard to its speech were consistent with the Notice of the Election in NLRB Case No. 01-RC-283202.

12. No remedy is appropriate as Respondent has not engaged in any unfair labor practice. Further, the remedies requested in the Complaint are punitive, inappropriate, non-

remedial, violate Respondent’s freedom of speech and assembly rights under the First Amendment, violate the takings clause of the Fifth Amendment, and are beyond the authority of the Board to order under Section 10(c) of the Act.

For example, the ordering of the prayed-for remedy relating to the reading of a notice would exceed the Board’s authority under Section 10(c) of the Act and constitute an unconstitutional infringement on the First Amendment rights of freedom of speech and the right of the people peaceably to assemble, unconstitutional compelled speech that is prohibited by the First Amendment, and an unconstitutional deprivation and taking of property prohibited by the Fifth Amendment. *See, e.g., Denton Cty. Elec. Coop., Inc. v. NLRB*, 962 F.3d 161, 174 (5th Cir. 2020).

13. It is improper for the Board to issue any remedy in this case “based on a pattern of similar prior conduct in response to prior protected activity at other locations . . . .” GC Ex. 2 at 2.

First, the Board has never found – nor does the Complaint allege – that Respondent has engaged in any unfair labor practice by any “prior conduct . . . at other locations . . . .” *Cf.* Cpl. at ¶ 2(a) (“the retail store at issue in this proceeding [is] located at Barkhamsted, Connecticut . . . .”) Accordingly, the Board lacks statutory authority to issue a remedy based on such conduct. *See* NLRA § 10(b) (no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge); NLRA § 10(c) (Board’s remedial order must be based on finding that Respondent has engaged in unfair labor practices stated in the complaint).

Second, the Board permitting introduction of such evidence and relying upon it to support a remedy would violate Respondent’s Due Process Rights under the U.S. Constitution and other federal law. The Complaint does not provide details regarding the “prior conduct . . . at other



locations,” including the identity of Respondent’s agents, the other locations, the conduct, or the dates the conduct occurred, thereby depriving Respondent adequate opportunity to defend against these assertions.

14. Some or all of the allegations in the Complaint are time-barred by Section 10(b) of the Act.

15. Respondent further reserves the right to amend and/or supplement its answers and affirmative defenses.

**WHEREFORE**, Respondent respectfully requests that the Complaint be dismissed in its entirety, with prejudice.

Dated: January 24, 2023

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Michael E. Lignowski/rt

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*Attorney for Respondent Dollar General*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 24, 2023, an electronic copy of the foregoing Respondent Dollar General's Answer to the Amended Consolidated Complaint in NLRB Cases 01-CA-284330, et al. was sent by e-mail to the following e-mail addresses:

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*Counsel for the General Counsel*

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*Attorney for Respondent Dollar General*

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 1, SUBREGION OFFICE 34**

**DOLGENCORP, LLC D/B/A DOLLAR  
GENERAL**

**and**

**UNITED FOOD AND COMMERCIAL  
WORKERS INTERNATIONAL UNION,  
LOCAL 371, AFL-CIO**

**Cases           01-CA-284330  
                  01-CA-286021  
                  01-CA-287491**

**RESPONDENT DOLLAR GENERAL'S  
ANSWER TO THE AMENDED CONSOLIDATED COMPLAINT**

Pursuant to Sections 102.20 and 102.21 of the Rules and Regulations of the National Labor Relations Board ("NLRB" or "Board"), Dolgencorp, LLC D/B/a Dollar General ("Respondent"), through its undersigned counsel, answers the Consolidated Complaint ("Complaint") according to the numbered paragraphs thereof.

**Introduction**

To the extent the Complaint's introduction contains factual allegations and/or legal conclusions, they are denied.

**Paragraph 1**

(a) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

(b) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

(c) Respondent is without knowledge as to when the amended charge referenced was filed, but Respondent admits that it received a copy of the amended charge on or about the listed date.

(d) Respondent is without knowledge as to when the charge referenced was filed, but Respondent admits that it received a copy of the charge on or about the listed date.

**Paragraph 2**

- (a) Respondent admits the allegations in Paragraph 2(a).
- (b) Respondent admits the allegations in Paragraph 2(b).
- (c) Respondent admits the allegations in Paragraph 2(c).
- (d) Respondent admits the allegations in Paragraph 2(d).

**Paragraph 3**

- (a) Admitted on information and belief.

**Paragraph 4**

(a) Respondent admits the allegations in Paragraph 4(a) with the following corrections:

- Janie Farris is now Senior Director of Operational Effectiveness. At the times underlying the Complaint allegations, Farris was Director of Operational Effectiveness.
  - Tod Boyster is Vice President, Division Manager.
  - The employment relationship between Respondent and George Morgan terminated on October 12, 2021
- (b) Respondent denies the allegations in Paragraph 4(b).

**Paragraph 5**

Respondent denies the allegations in Paragraph 5.

**Paragraph 6**

- (a) Respondent denies the allegations in Paragraph 6(a).
- (b) Respondent denies the allegations in Paragraph 6(b).
- (c) Respondent denies the allegations in Paragraph 6(c).
- (d) Respondent denies the allegations in Paragraph 6(d).
- (e) Respondent denies the allegations in Paragraph 6(e).

**Paragraph 7**

- (a) Respondent denies the allegations in Paragraph 7(a).
- (b) Respondent denies the allegations in Paragraph 7(b).

**Paragraph 8**

- (a) Respondent denies the allegations in Paragraph 8(a).
- (b) Respondent denies the allegations in Paragraph 8(b).
- (c) Respondent admits the allegation in Paragraph 8(c).
- (d) Respondent denies the allegations in Paragraph 8(d).

**Paragraph 9**

Respondent denies the allegations in Paragraph 9.

**Paragraph 10**

Respondent denies the allegations in Paragraph 10.

### **Further Global Denial**

Any and all remaining allegations contained in the Complaint, including but not limited to the prayer for relief section, are denied. Any and all Complaint allegations not specifically admitted above are denied.

### **AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief can be granted.
2. The facts alleged in the Complaint concerning the discharge of Jacob Serafini (“Serafini”) cannot constitute any unfair labor practice within the meaning of Section 8(a)(3) or (1) of the National Labor Relations Act (“NLRA” or the “Act”). Respondent did not discharge Serafini because he engaged in activities protected by Section 7 of the Act nor in order to discourage employees from engaging in such activities. Respondent discharged Serafini for legitimate business reasons and would have taken the same action even in the absence of any activity protected by Section 7 of the Act.
3. No order of the Board may require the reinstatement of Serafini or the payment to him of any backpay because he was discharged for cause. NLRA § 10(c).
4. The facts alleged in the Complaint cannot constitute any unfair labor practice within the meaning of Section 8(a)(1) of the Act because they do not describe conduct of the Respondent that constitutes unlawful interference, restraint, or coercion of employees in the exercise of the rights guaranteed in Section 7 of the Act.

For example, supervisors of Respondent being present at Respondent’s Barkhamsted, Connecticut facility, supervising employees, and/or speaking to employees about Respondent’s business does not interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7 of the Act and therefore does not violate Section 8(a)(1) of the Act.

For example, supervisors of Respondent exercising the rights to engage in the “expressing of any views, argument, or opinion, or the dissemination therefore,” where “such expression contains no threat of reprisal or force or promise of benefit,” does not “constitute” or provide “evidence of” any unfair labor practice under Section 8(a)(1) or any other provision in the Act, irrespective of whether Respondent engages in such speech to employees in the workplace, on company time, or in a meeting or a one-on-one discussion where attendance is considered mandatory. NLRA § 8(c).

5. Any finding of an unfair labor practice based in whole or in part on speech and/or views, argument, or opinion spoken or disseminated by Respondent or managers, supervisors, agents and other persons acting on behalf of Respondent (collectively hereinafter referred to as “Respondent’s agents” or “its agents”) in any meetings, one-on-one discussions, or written or other communications, whether in written, printed, graphic, or visual form which “contains no threat of reprisal or force or promise of benefit” is prohibited by NLRA Section 8(c).

6. Any finding of an unfair labor practice based in whole or in part on speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit” constitutes an unconstitutional infringement on the First Amendment rights of freedom of speech and the right of the people peaceably to assemble.

7. Any finding of an unfair labor practice based in whole or in part on: (a) speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit,” and (b) the failure by Respondent and its agents to make affirmative statements about rights ostensibly protected by the NLRA (e.g., “that

attendance is voluntary,” that they “will be free to leave at any time,” that “non-attendance will not result in reprisals,” and that “attendance will not result in rewards or benefits”),<sup>1</sup> constitutes an unconstitutional infringement on the First Amendment rights of freedom of speech and the right of the people peaceably to assemble, unconstitutional compelled speech that is prohibited by the First Amendment, and an unconstitutional deprivation and taking of property prohibited by the Fifth Amendment. *See, e.g., National Association of Manufacturers v. NLRB*, 717 F.3d 947 (D.C. Cir. 2013).

8. Any finding of an unfair labor practice based in whole or in part on: (a) speech and/or views, argument, or opinion spoken or disseminated by Respondent or its agents in any meetings, one-on-one discussions, or written or other communications which “contains no threat of reprisal or force or promise of benefit,” (b) the failure by Respondent and its agents to make affirmative statements about rights ostensibly protected by the NLRA (e.g., “that attendance is voluntary,” that they “will be free to leave at any time,” that “non-attendance will not result in reprisals,” and that “attendance will not result in rewards or benefits”), violates the Act’s prohibition against the Board’s creation of affirmative employer notice requirements unrelated to a pending representation petition and/or pending charge and complaint resulting in an unfair labor practice finding. *See, e.g., Chamber of Commerce of the United States v. NLRB*, 721 F.3d 152 (4th Cir. 2013); *cf. National Association of Manufacturers v. NLRB*, 717 F.3d 947 (D.C. Cir. 2013).

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**WHEREFORE**, Respondent respectfully requests that the Complaint be dismissed in its entirety, with prejudice.

Dated: January 24, 2023

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Michael E. Lignowski/rt

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*Attorney for Respondent Dollar General*

**CERTIFICATE OF SERVICE**

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